

**Community Development Advisory Commission Meeting
March 2, 2006 Minutes**

The Community Development Commission met on Thursday, February 2, 2006 in the City Hall Council Chambers located at 221 East Main Street, Round Rock, Texas. The meeting was called to order at 6:35 pm. The following commissioners were present for roll call: Rodney Howard, Rick Guzman, Martha Chavez, and Karen Adair-Murphy. Dina Schaefer arrived at 6:45 PM. Mary Green and Stephanie Baker were absent.

Minutes: February 2, 2006.

Motion: Commissioner Adair-Murphy moved to approve the February 2, 2006 minutes as submitted. Motion was seconded by Commissioner Guzman.

Vote:	Ayes:	Rodney Howard
		Rick Guzman
		Dina Schaefer
		Martha Chavez
		Karen Adair-Murphy
	Noes:	None
	Abstain:	None
	Absent:	Stephanie Baker
		Mary Green

Motion carried unanimously.

Public Hearing:

- A. **Consider public testimony concerning community needs for the development of the 2006-2007 Community Development Annual Action Plan, also known as the Third Program Year Action Plan of the 2004-2009 Consolidated Plan.**

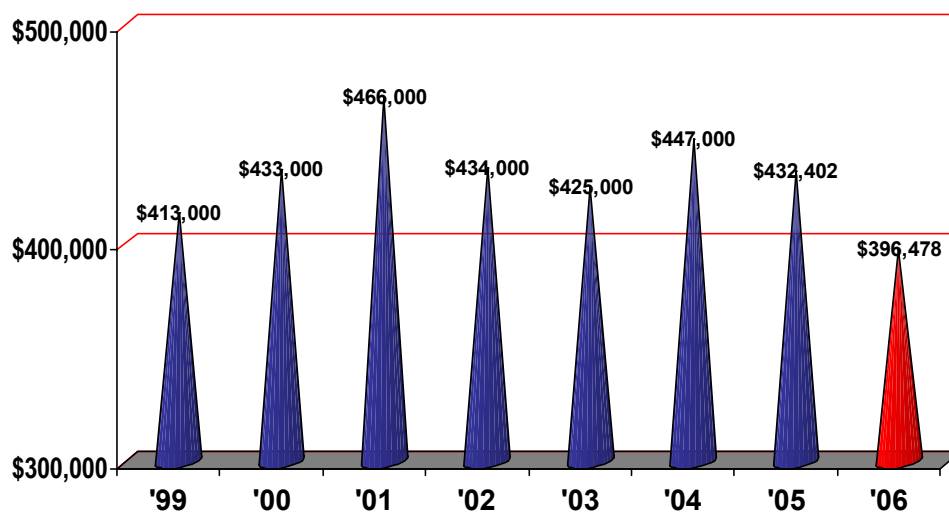
The Code of Federal Regulations (CFR) 91.105 (e) requires that at least two public hearings per year are held to obtain citizens' views on community needs for the preparation of a consolidated plan.

Comments gathered at public hearings will be considered for plan development and noted in the final document that will be adopted by the City and presented to the Department of Housing and Urban Development in August, 2006.

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This is the third public hearing in a series of four being held to gain input from citizens. Public hearings were held on 2/23/06 at Round Rock Housing Authority Cushing Center; United Way of Williamson County with public service agencies on 2/28/06. The fourth public hearing will be held by City Council on March 9, 2006. Notice of the public hearings was published in the Round Rock Leader on Thursday, February 16, 2006 and was posted on the bulletin board at City Hall on February 13, 2006.

Anticipated funding for the next fiscal year has been reduced to below \$400,000, which is the first time this has occurred.



The public hearing was opened for comments. Being none, the hearing was closed.

The Chairman called for a motion to table agenda item 5A, presentation concerning the new state regulation, Local Government Code Chapter 176, concerning city officials and vendors filing a conflicts disclosure statement because the City Attorney was not present.

MOTION: Commissioner Murphy moved to table Item 5A, presentation concerning the new state regulation, Local Government Code Chapter 176, concerning

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city officials and vendors filing a conflicts disclosure statement. Motion was seconded by Commissioner Chavez.

Vote:	Ayes:	Rodney Howard
		Rick Guzman
		Dina Schaefer
		Martha Chavez
		Karen Adair-Murphy
	Noes:	None
	Abstain:	None
	Absent:	Stephanie Baker
		Mary Green

Motion carried unanimously.

Being no further discussion, the meeting adjourned at 6:55 p.m. The meeting was reconvened at 6:57 p.m. upon the arrival of Barbara Boulware-Wells, City Attorney.

Work Session:

A. Consider a presentation concerning the new state regulation, Local Government Code Chapter 176, concerning city officials and vendors filing a conflicts disclosure statement.

Barbara Boulware-Wells, Attorney at Law, Sheets & Crossfield, P.C., made the presentation. The presentation explained new requirements for city officials as a result of H.B. 914 that became effective January 1, 2006.

Chapter 176 requires that certain City officers file a "Conflicts Disclosure Statement" (Form CIS) if they receive taxable income or certain gifts from any person or business that contracts with or is considering doing business with the City.

The law also requires any person or business that contracts with or is considering doing business with a City to file a "Conflicts of Interest Questionnaire." (Form CIQ)

City officers are subject to the new law include Mayors and City Councilmembers, City Manager or Administrator, City Board, Commission and Authority members, Economic development corporation board members, An executive

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director of an economic development corporation, and any other person who is designated as an executive officer of a City.

An officer who is subject to the law must file a Form CIS within seven (7) days of becoming aware of either of the following situations:

The City officer or the officer's family member has an employment or other business relationship that results in taxable income with a person who has contracted with the City or with whom the City is considering doing business; or the City officer or the officer's family member accepts one or more gifts with an aggregate value of \$250.00 in the preceding twelve (12) months from a person who conducts business with or is being considered for business with the City.

A family member is defined as a person related to the City officer within the first degree of consanguinity (blood) or affinity (marriage). This definition includes a spouse, father, mother, son, daughter, father-in-law, mother-in-law, son-in-law and so on.

A city officer receiving gifts such as food, lodging, transportation, or entertainment do not trigger reporting *if received as a guest*.

The Form CIS should be filed with the City Secretary. A City officer who knowingly fails to file the statement commits a class C misdemeanor. A class C misdemeanor is punishable by a fine of up to \$500. It is a defense to prosecution if the officer files the Form CIS no later than seven (7) business days after the officer receives notice of a violation.

The new law also requires vendors of a City to file a "Conflicts of Interest Questionnaire" (Form CIQ).

Vendors subject to Chapter 176, Local Government Code are defined as:

Any person or business who contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity; and

An agent of a person or business who contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity.

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As written, the law appears to apply to any purchase made by a city. Texas Municipal League has opined:

... that interpretation will be extremely burdensome to many cities. A more reasonable interpretation is that the law only applies to large, written contracts. But the plain language of the law does not unambiguously support that view. Thus, city officials should consult with local legal counsel to determine how strictly they wish to interpret the new statute.

■ A vendor must file the Form CIQ when the person wishes to conduct business with a City no later than seven (7) business days after the date the person begins contract discussions or negotiations with the City, or submits an application or response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City.

The vendor must update the Form CIQ not later than the seventh (7th) business day after the date of an event that would make a statement in the previously filed Form CIQ incomplete or inaccurate.

The vendor must also file an updated Form CIQ no later than September 1 of each year in which the contract or other form of agreement is pending unless the vendor has filed the initial Form CIQ on or after June 1 or updated it as explained.

Like the Form CIS, the Form CIQ should be filed with the City Secretary. A vendor who fails to follow the statute commits a class C misdemeanor (punishable by a fine up to \$500.00). The vendor has a defense to prosecution if the vendor files the required Form CIQ not later than the seventh (7th) business day after the date the vendor receives notice of the violation.

A City is required to maintain a list of City officers who are subject to the law and make the list available to the public.

A City is also required to provide access to the statements and questionnaires on the City's Internet Web site. The requirements in this statute are cumulative to any other disclosure required by law.

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■ **Disclosure v. Conflict laws**

It is important to note that Chapter 176 only requires disclosure of interests of City officers and Vendors, but contains no prohibitions against conflicts whereas Chapter 171 prohibits conflicts of interest for City officials, as well as requires disclosure. Furthermore, the City has an ordinance that similarly prohibits conflicts of interest. (**Section 1.900, Round Rock Code of Ordinance**)

Chapter 171 is the general conflict of interest law that establishes the standard for determining when a City official has a conflict of interest that would affect his/her ability to discuss, decide or vote on a particular item.

Section 1.900 of the Code of Ordinances addresses standards of conduct and financial disclosure for city officials, appointees and employees.

Local public officials under Chapter 171 are defined as:

1. Elected City officials (whether paid or unpaid); and
2. Appointed City officials (paid or unpaid) *who exercise responsibilities that are more than advisory in nature.*

Only two (2) types of conflicts are covered by Chapter 171:

Business entity conflict: conflicts arising due to a City official's substantial interest in a "business entity" that has an issue before the City; and

Real property conflict: conflicts arising from a City official's substantial interest in "real property" that would be affected by a City action.

There are four Types of Substantial Interest in a Business Entity:

- (1) Stock interest – City official owns 10% or more of the total voting stock or shares of the business entity;
- (2) Other ownership interest – City official owns 10% or more or \$15,000 or more of the fair market value of the business entity;
- (3) Income interest – City official received 10% or more of his/her gross income from business entity; or

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- (4) Close family member – City official's close family member (first degree consanguinity or affinity) has any of the above types of interest in the business entity.

■ There are two types of Substantial Interest in Real Property

- (1) Ownership interest: City official has legal or equitable interest of \$2,500 or more in real property that would be affected by City action;
or
- (2) Close family member: close family member (first degree of consanguinity or affinity) of City official has a legal or equitable interest of \$2,500 or more in real property that would be affected by City action.

If conflict exists under Chapter 171 a City official must take the following actions:

- (1) File an Affidavit with City Secretary stating the nature and extent of the interest in the matter. Affidavit must be filed before any vote or decision on the matter;
- (2) Abstain from discussion on the matter; and
- (3) Abstain from voting on the matter.

Like Chapter 171, Local Government Code, Section 1.900 prohibits a City official who has a substantial interest in any real property or business entity from voting on or otherwise participating in considering a matter before that City official if the matter involves such real property or business entity.

Unlike Chapter 171, Section 1.900 also prohibits an appointee or employee who has a substantial interest in any real property or business entity from voting on or otherwise participating in any decision making process on a matter if the matter involves such real property or business entity.

City Official defined under Section 1.902 is the mayor, every member of the city council, the city manager, the assistant city manager, the communications director, the public affairs & business development director, the city attorney, the city secretary, the

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planning director, the chief financial officer, the finance director, the library director, the police chief, the fire chief, the parks and recreation department director, the human resources director, the chief of operations, the director of public works, and persons acting in the capacity of the aforementioned city officials, appointees, or employees.

An Appointee is defined under Section 1.902 is defined as persons appointed or confirmed by the mayor or city council; provided however for the purposes of this definition, the term "appointee" does not include Municipal Judges.

An employee is defined as any person employed by the city whether under civil service regulations or not, including those individuals on a part-time basis, but such term shall not be extended to apply to any independent contractor.

City Official or Appointee Actions Required under Section 1.900

- (1) If city official or appointee has substantial interest in real property or business entity, the city official or appointee shall not vote or participate in decision; and
- (2) Public disclose, verbally or in writing, the nature and extent of the interest prior to any discussion or determination or immediately upon discovery of the conflict of interest.
- (3) The statement shall be included in the official minutes of that body.

Employee Action Required under Section 1.900

- (1) If employee has substantial interest in real property or business entity in any decision pending before that employee's department, the employee shall not participate in consideration of the matter.
- (2) Employee shall disclose such information in writing to the employee's supervisor and to the city secretary prior to any consideration of the matter.
- (3) The city secretary shall keep a file of employee statements and it shall be a public record.

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By April 30th of each year, each city official shall file a sworn financial disclosure statement with the city secretary reflecting the financial situation of the city official as of December 31st of the previous year.

Newly employed or appointed city officials shall file a sworn financial disclosure statement within thirty (30) days from the date the position with the city is assumed and shall reflect the financial situation as of the date of employment or appointment and for the previous twelve (12) months.

City secretary shall maintain all financial disclosure statements as public records and retain them for three (3) years.

■ **Additional Financial Disclosure Requirements:**

- (1) A city official, appointee or employee shall immediately and publicly identify all individuals or business entities that:
- (2) he/she or a business entity in which he/she has a substantial interest or has had business dealings involving one or more transactions of \$500 or more each within the immediately preceding twelve (12) month period; and
- (3) Appear before and request some action of the city council, board or commission of which he/she is a member.

A person who appears before the city council or commission who has had business dealings in the immediately preceding twelve (12) month period involving one or more transactions of \$500 or more with a council member, commissioner or business entity in which a council member or commissioner has a substantial interest shall disclose such business dealings at the time of the appearance.

The Commissioners had many questions and concerns and asked that the City Attorney return for a follow up briefing to address some unanswered questions. Ms. Bouleware-Wells agreed to return at the next meeting.

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4.B. Consider staff briefing on the Minor Home Repair Program.

Ryan reported that the contractor had been selected and a recommendation would be made to City Council in March regarding the award. The program is on track at this point and proceeding according to schedule.

Being no further business discussion, the meeting adjourned at 8:00 p.m.

Respectfully submitted,

Mona Ryan,

Community Development Coordinator